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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/889,556  | 09/27/2001  | Lonce Lamar Wyse     | P21287              | 7713             |
| 7055  | 7590        | 05/19/2004           | EXAMINER            |                  |
| GREENBLUM & BERNSTEIN, P.L.C.<br>1950 ROLAND CLARKE PLACE<br>RESTON, VA 20191 |             |                      | ARSHAD, UMAR        |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2174                |                  |

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/889,556

Applicant(s)

WYSE ET AL.

Examiner

Umar Arshad

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/13/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 3, 10 – 13, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Capps et al., U.S. Patent No. 5,204,969.

As per claim 1, Capps teaches an apparatus for labeling a sound or a representation thereof, the apparatus comprising a sound generator capable of generating a family of sounds by selection of values of parameters of a sound model (see Capps, column 3, lines 16 – 24), at least some parameter values being associated with descriptive labels whereby selection of the value automatically selects the corresponding label (see Capps, figure 5, items 53D and 53E and column 5, lines 3 – 7).

As per claim 2, which is dependent on claim 1, Capps teaches the method of claim 1 (see rejection above). Capps further teaches the apparatus as claimed in Claim 1 wherein the values of each parameter are divided into a plurality of ranges, the labels

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being associated with respective ranges (see Capps, figure 7, items 73D and 73E and column 5, lines 60 – 64).

As per claim 3, which is dependent on claim 1, Capps teaches the method of claim 1 (see rejection above). Capps further teaches the apparatus as claimed in Claim 1 wherein the value labels are combined with a model label indicating the identity of the model (see Capps, figure 4B, items 41A-D and 46D and column 3, line 60 – column 4, line 2).

As per claim 10, which is dependent on claim 1, Capps teaches the method of claim 1 (see rejection above). Capps teaches the apparatus as claimed in Claim 1 wherein the parameters include values not associated with any label (see Capps, figure 2, item 23 and column 2, line 64 – column 3, line 2).

As per claim 11, which is dependent on claim 10, Capps teaches the method of claim 10 (see rejection above). Capps teaches the apparatus as claimed in Claim 10 wherein said values not associated with any label include values for which the parameter has little or no effect on the generated sound (see Capps, figure 2, item 23 and column 2, line 64 – column 3, line 2; it is inherent that the display resolution of the waveform does not effect the generated sound).

As per claim 12, which is dependent on claim 1, Capps teaches the method of claim 1 (see rejection above). Capps further teaches the apparatus as claimed in Claim 1 wherein the sound or representation thereof in the form of a digital audio file (see Capps, column 1, lines 38 – 40; it is inherent that the sound are stored digitally because they are stored in a computer memory).

As per claim 13, which is dependent on claim 1, Capps teaches the method of claim 1 (see rejection above). Capps further teaches the apparatus as claimed in Claim 1 wherein the sound or representation thereof is in the form of an analog audio file (see Capps, claim 1, lines 13 – 15).

As per claim 15, which is dependent on claim 1, Capps teaches the method of claim 1 (see rejection above). Capps further teaches the apparatus as claimed in Claim 1 wherein the sound or representation thereof is in the form of the selected parameter values for the model (see Capps, figure 2, item 20).

As per claim 16, Capps teaches a method of labeling a sound or a representation thereof comprising the steps of:

selecting a sound by selection of values of parameters of a sound model (see Capps, column 3, lines 16 – 24),

at least some parameter values being associated with descriptive labels whereby selection of a value automatically selects a corresponding label (see Capps, figure 5, items 53D and 53E and column 5, lines 3 – 7), generating the sound or representation as a file and associating the file with the label (see Capps, column 1, lines 38 – 40 and column 3, line 60 – column 4, line 2; it is inherent that the sound are stored digitally because they are stored in a computer memory).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capps et al., U.S. Patent No. 5,204,969 in view of Eisenbrandt et al., U.S. Patent No. 5,438,180.

As per claim 4, which is dependent on claim 3, Capps teaches the method of claim 3 (see rejection above). Capps does not teach the apparatus as claimed in claim 3 wherein the value and model labels are combined in a grammatical or semi-grammatical structure. Eisenbrandt teaches wherein labels and parameters are combined in a grammatical or semi-grammatical structure (see Eisenbrandt, figure 2 and column 2, lines 11 – 18). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Eisenbrandt with the method of Capps in order to provide an intuitive input selection process.

As per claim 5, which is dependent on claim 4, Capps teaches the method of claim 4 (see rejection above). Capps does not teach the apparatus as claimed in Claim 4 wherein the value labels qualify the model label. Eisenbrandt teaches wherein the value labels qualify the model label (see Eisenbrandt, figure 2 and column 2, lines 26 – 30). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Eisenbrandt with the method of Capps in order to provide a more intuitive input selection process.

Claims 6 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capps et al., U.S. Patent No. 5,204,969 in view of Menendez et al., U.S. Patent No. 5,555,369.



As per claim 6, which is dependent on claim 3, Capps teaches the method of claim 3 (see rejection above). Capps does not teach the apparatus as claimed in Claim 3 wherein the value and model labels are combined using a template defining how the labels are combined. Menendez teaches wherein the value and model labels are combined using a template defining how the labels are combined (see Menendez, column 2, lines 37 – 48). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Menendez with the method of Capps in order to provide an easier method of creating and arranging complicated graphical user interfaces.

As per claim 7, which is dependent on claim 6, Capps teaches the method of claim 6 (see rejection above). Capps does not teach the apparatus as claimed in Claim 6 wherein the template specifies the relative position of each label. Menendez teaches wherein the template specifies the relative position of each label (see Menendez, column 2, lines 37 – 48). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Menendez with the method of Capps in order to give a user more flexibility in creating and arranging complicated graphical user interfaces.

As per claim 8, which is dependent on claim 6, Capps teaches the method of claim 6 (see rejection above). Capps does not teach the apparatus as claimed in claim 6 wherein the template specifies text to be used between labels. Menendez teaches

wherein the template specifies text to be used between labels (see Menendez, column 9, line 61 – column 10, line 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Menendez with the method of Capps in order to give a user more flexibility in creating and arranging complicated graphical user interfaces.

As per claim 9, which is dependent on claim 6, Capps teaches the method of claim 6 (see rejection above). Capps does not teach the apparatus as claimed in Claim 6 wherein the template includes conditional statements for inclusion of a label and/or text. Menendez teaches wherein the template includes conditional statements for inclusion of a label and/or text (see Menendez, column 11, lines 8 – 10; the examiner interprets a button script as a conditional statement because it will execute on the condition that the button it is associated with on the template is pressed). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Menendez with the method of Capps in order to give a user more flexibility in creating and arranging complicated graphical user interfaces.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Capps et al., U.S. Patent No. 5,204,969 in view of Bryan, Jr. et al., U.S. Patent No. 5,559,301.

As per claim 14, which is dependent on claim 1, Capps teaches the method of claim 1 (see rejection above). Capps does not teach the apparatus as claimed in Claim 1 wherein the sound or representation thereof is in the form of control codes for a synthesizer. Bryan, Jr. teaches a sound or representation thereof is in the form of control codes for a synthesizer (see Bryan, Jr., column 2, lines 40 – 46). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Bryan, Jr. with the method of Capps in order to provide an improved, less complicated and easy to use graphical interface for a music synthesizer.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umar Arshad whose telephone number is (703) 305-0329. The examiner can normally be reached on Monday - Friday, 9am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L Kincaid can be reached on (703) 308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UA

*Kristine Kincaid*  
KRISTINE KINCAID  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100